IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 35303 of 2007(C)

PETITIONER:

GE INDIA INDUSTRIAL (PVT) LIMITED,
(LIGHTING DIVISION), 42/1 & 45/14, ELECTRONICS
CITY PHASE-II, HOSUR ROAD, BANGALORE - 560 100,
THROUGH ITS C&F AGENT, M/S.FALYJAC LOGISTICS,
VAIBHAV APARTMENTS, SAHAR PIPE LINE ROAD, ANDHERI
(E), MUMBAI - 400 099, BRANCH AT TMMC BLDG, GV IYER ROAD,
WILLINGDON ISLAND, COCHIN-3 REPRESENTED BY ITS BRANCH
MANAGER, S. HARI KUMAR.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENTS:

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1. COMMERCIAL TAX INSPECTOR,
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD DISTRICT.

2. THE COMMISSIONER OF COMMERCIAL TAXES,
PUBLIC OFFICE BUILDINGS, TRIVANDRUM.

BY GOVERNMENT PLEADER SRI GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

W.P.(C) 35303 OF 2007

Dated: December 7, 2007

JUDGMENT

The goods consigned by the petitioner to a consignee in Cochin has been detained at the check post at Walayar by Ext.P2. Since the detention of the electrical goods was as early as on 20th October 2007, the petitioner, who is the consignor, submits that the consignee is not willing to accept the consignment. In view of this, all that the petitioner wants is to take the goods back. It is for that purpose that the petitioner has filed this writ petition challenging the detention.

2. Now, in view of the change in attitude of the consignee, the petitioner only wants to get the goods released for its transportation back to their original place.

3. This prayer is opposed by the respondents by filing a counter affidavit in which they, relying on Sec.3 of the Central Sales Tax Act, content for the position that once the goods have entered the boundaries of the State, it should suffer the Central Sales Tax and other liabilities.

4. On facts it is evident that though the goods were consigned to be delivered at Cochin, it was detained at the check post, as a result thereof the sale has not fructified. In which case, Sec.3 will not operate

against the petitioner. Here, as the goods were detained in the check post and, on account of the unwillingness of the consignee to take delivery, all that the petitioner wants is to take back the goods to avoid further damages. In my view Sec.3 cannot apply to the situation as obtained in this case.

5. In view of this I direct that the goods detained as per Ext.P2 be released to the petitioner on the production of a copy of this judgment.

Writ Petition is disposed of as above.

ANTONY DOMINIC, JUDGE

mt/-